



THE AMERICAN LAWYER

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LITIGATION DEPARTMENT *of the Year*

INTELLECTUAL PROPERTY • Winner
FINNEGAN HENDERSON

SPECIAL ISSUE

WE WERE CAREFUL WHAT WE asked for and amazed by what we received. For the third time, we set out to pick the Litigation Department of the Year, and for the second time, the best specialty groups in Intellectual Property, Labor and Employment, and Product Liability.

We invited Am Law 200 firms to report on their litigation records

between January 1, 2004, and June 30, 2005. Specifically, we asked for no more than five examples of "significant achievements" in six categories, ranging from pretrial work to appellate to pro bono. There were a couple of surprises:

- The competition was the stiffest yet. The 120 entries kept four teams of reporters and editors busy for nearly four months. The choices were very close.
- Smaller departments dominated the general category. This time their cases and their results were better.

Some things didn't change. In each contest, we whittled down the entries to a shortlist of finalists, and then visited each of them, offering these master advocates the chance to plead their cases. Not all excelled. And once again we asked for client references and, as before, some clients proceeded to scoff at the very firms they knew all too well.

In our special report we present the four winners, the runners-up, and, in the Department of the Year contest, 12 more who merited special attention. Congratulations! And let the appeals begin.

—ARIC PRESS

PHOTOGRAPH BY DOUGLAS LEVERE

prepared to split up the suit and counter-suit, with Ivey defending Guidant against Medtronic's claims. That didn't happen. In a summary judgment ruling on January 5, 2005, Judge Sue Robinson gave Finnegan a belated Christmas gift, ruling that Guidant did not infringe any of Medtronic's patents. Suddenly Finnegan's load was halved, and Guidant was off the hook for billions. The case against Medtronic proceeded to trial, with Jakes and Ivey leading a team of five Finnegan lawyers.

Ivey, the seasoned trial advocate, handled the opening and closing, arguing that Guidant's new stent was an important breakthrough over the old technology—and a blessing for patients suffering from coronary artery disease. "Three jury members had family members with heart conditions," says Ivey, who believed the jurors would truly appreciate Guidant's invention. While Medtronic's lawyers from McDermott Will & Emery argued that Guidant's patents were really nothing new, Ivey emphasized again and again that it was, as he said in his closing, "a radical advance." In February the jury ruled in Guidant's favor. A bench trial on inequitable conduct followed the ruling, and posttrial motions are pending. A separate trial on damages has not yet been scheduled, and Finnegan won't say how much it will request. But public estimates have predicted damages will be in the range of \$800 million.

Making the transition to patent work came relatively easy for Ivey, who was a government major in college. At Wilson Elser, Ivey had tried several medical

product liability cases. Unlike Ivey, Lipsey and Jakes have the traditional Finnegan pedigree: a bachelor's degree in engineering, and a clerkship at the Federal Circuit. Both lawyers are Dunner protégés. Lipsey was one of Dunner's students at The George Washington University Law School, and they both started at Finnegan on the same day in 1978—although Dunner, now a name partner, came in at a much higher level. "I latched on to [Lipsey]," says Dunner. "I got him heavily involved in all my cases." Lipsey ultimately took over the Lilly account from Dunner.

Dunner also brought Jakes to the firm. Jakes's sister, a friend of Dunner's daughter, made the match. As an associate, Jakes helped Dunner get an \$85 million verdict for Mattel, Inc., overturned on appeal. "He was too good to work as an assistant to me," Dunner says, touting Jakes's ability to write beautiful legal briefs—a skill he may have picked up from his father, John Jakes, best-known for his novel *North and South*. In 2004, Jakes demonstrated his Federal Circuit chops, representing Cardiac Pacemakers, Inc., in an appeal of a \$140 million judgment. Working with cocounsel from Oblon Spivak McClelland Maier & Neustadt, Jakes was able to get the suit partially reversed and remanded for a new trial—scheduled for July.

Still, there's no question that Finnegan's appellate practice revolves around Dunner. The 72-year-old is the Bill Parcells of the patent bar. Pro football teams bring in Parcells to turn their teams around; clients who lose patent cases hire

Dunner for that same magic. In 2004 Dunner obtained a reversal of a \$46 million verdict against Conair Corporation in a patent case over blow-dryer technology. Conair had used Greenberg Traurig at trial, but turned to Dunner for the appeal. Asked if, at 72, he is prepared to pass the mantle, Dunner says, "That assumes facts not in evidence. I don't intend to retire. My mother's 99. I play tennis, go skiing, and have a batch of cases in the pipeline."

Finnegan also stands out among IP firms for its pro bono work. Through its litigation mentor program, the firm represented 15 criminal defendants in the 18-month time period. The program was founded in 2001 by Mary Kennedy, who joined Finnegan from the Washington, D.C., public defender's office, and has experience in more than 50 jury trials. In a practice area like IP, where cases can take years to go to trial, the pro bono work helps get young associates into the courtroom. James Barney, a seventh-year associate, who worked on the Guidant case, defended a client in a murder trial this fall.

IP litigation work may not involve criminals, but patent trials can be murder. Last year Finnegan did the slaying.

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Managing Intellectual Property

Incorporating IP Asia
March 2005
www.managingip.com



Top firms in trade mark and copyright

The results of this year's survey of the leading firms in trade mark/copyright work cover more than 50 jurisdictions/regions and are based on extensive research conducted over the past five months. This year, in response to the feedback we have received, we have radically expanded the scope of the research. The familiar nomination forms, enabling practitioners to nominate the leading firms in all countries covered, continue to provide the foundation for the research. But this year we have built on these with telephone and written interviews covering all the countries in the survey – from Argentina to Vietnam.

Over the past three months, our team of researchers has asked practitioners, as well as in-house counsel, for detailed comments on each of the categories listed in this year's survey. Based on this extensive research, we have built up a more nuanced picture of the IP market, reflecting the different strengths of firms, their specialisms and experience, and how they compare with each other.

The result is that rather than listing just 10 firms for each country in a one-to-10 listing, we have compiled tables of varying lengths broken up into tiers. The total number of firms

- Nomination forms were sent to some 4,000 IP practitioners worldwide.
- Individuals could nominate up to three firms in each of 57 categories.
- Private practitioners could not vote for their own firms in any category.
- Only responses from people on MIP's database of practitioners were considered.
- Based on the total number of nominations received, offices in each jurisdiction were listed to give preliminary rankings.
- MIP's team of researchers then sought further feedback on the preliminary rankings from specialists in each jurisdiction, as well as in-house counsel.
- This research involved in-depth feedback from more than 700 practitioners by phone, email and in face-to-face interviews.
- Based on this commentary and feedback from peers, the rankings for each jurisdiction were arranged into tiers.

US LITIGATION**TIER 1**

Fross Zelnick Lehrman & Zissu

TIER 2**Finnegan Henderson Farabow Garrett & Dunner**

Kenyon & Kenyon

Kilpatrick Stockton

Knobbe Martens Olson & Bear

TIER 3

Darby & Darby

Fitzpatrick Cella Harper & Scinto

Oblon Spivak McClelland Maier & Neustadt

Pattishall McAuliffe Newbury Hilliard & Geraldson

TIER 4

Cooley Godward

Cowan Liebowitz & Latman

Fish & Richardson

Howrey Simon Arnold & White

Kirkland & Ellis

TIER 5

Dorsey & Whitney

Morgan Lewis

Wilson Sonsini Goodrich & Rosati

TIER 6

Brinks Hofer Gilson & Lione

Nixon & Vanderhye

Pillsbury Winthrop Shaw Pittman

Welsh & Katz

TIER 7

Perkins Coie Brown & Bain

Winston & Strawn

TIER 8

Arent Fox

Fried Frank Harris Shriver & Jacobson

Hogan & Hartson

US TRADE MARK NON-CONTENTIOUS**TIER 1**

Fross Zelnick Lehrman & Zissu

TIER 2

Cowan Liebowitz & Latman

Finnegan Henderson Farabow Garrett & Dunner

Knobbe Martens Olson & Bear

Oblon Spivak McClelland Maier & Neustadt

TIER 3

Fish & Richardson

Fitzpatrick Cella Harper & Scinto

TIER 4

Abelman Frayne & Schwab

Burns Doane Swecker & Mathis

Ladas & Parry

Welsh & Katz

TIER 5

Morgan Lewis

Pillsbury Winthrop Shaw Pittman

Sheridan Ross

TIER 6

Brinks Hofer Gilson & Lione

Darby & Darby

Merchant & Gould

Sughrue Mion

TIER 7

Akin Gump Strauss Hauer & Feld

DLA Piper Rudnick Gray Cary

Dorsey & Whitney

Lott & Friedland

TIER 8

Alston & Bird

Cooley Godward

Perkins Coie Brown & Bain

printed therefore reflects the depth of expertise in each country, and the tiers reflect the research on each jurisdiction: firms in the top tier are regarded as the leaders in their market with the greatest expertise, experience and broadest coverage; those in the second tier are strong, but perhaps not quite as well-regarded; those in the lower tiers are also recommended but may offer a more limited range of services, or have less strength in depth.

The number of firms in each tier, and the total number of firms listed, varies according to the market in each jurisdiction. It is important to note that the survey is not an exhaustive list of every firm in each jurisdiction, and that every firm listed has been recommended and endorsed by a number of independent voters to ensure its inclusion. Firms listed in the third or fourth tiers should not be viewed as the bottom of the pile: every firm included in our lists has been recommended by a large number of practitioners. The rankings reflect the state of the market at the time the research was conducted – that is, between September 2004 and January 2005.

The full survey, covering patents and trade mark/copyright work, will also be published in the *World IP Contacts Handbook*, available from March this year. The *Handbook* will include more information on some of the jurisdictions cov-

ered, including commentary on the strengths and specialisms of particular firms, and listings of outstanding individuals. The *Handbook* is distributed free to all *MIP* subscribers, and also includes information and data on IP developments.

The rankings provided in the following pages are independent and objective. No firm can vote for its own inclusion, and no-one can pay to be listed. No firm has had a chance to see the tables before they were published here.

How to read the tables

The survey is a ranking of law firms and agencies that handle IP work; it is not a ranking of individuals. In countries where there is a split profession, both lawyers (solicitors) and agents (attorneys) firms are eligible. These are indicated with L and A respectively, while those firms providing both services are indicated with L/A. Where there is a unified profession, no such identification is provided.

In the UK, there are separate tables for agencies and law firms. In the US, separate tables are presented for non-contentious and contentious work. The tiers in which firms are listed correspond to their regard in the market. Within each tier, firms are listed alphabetically.

Managing Intellectual Property

Leading patent firms ranked

MIP's first IP survey was published in October 1996 and was welcomed as a unique guide to the leading firms practising IP work worldwide. Much has changed in the practice of IP law since then, and the survey reflected those changes. More countries were added as the survey grew from 20 to nearly 60 jurisdictions; separate tables were introduced for patent and trade mark/copyright work; and more analysis was provided on the particular strengths of firms, notably in those markets where there is a split profession of lawyers (or solicitors) and agents (or attorneys).

Despite these changes, the methodology for each of the eight annual surveys remained the same: the tables were based on faxed and emailed responses to our questionnaires to practitioners worldwide. The tables simply reflected the firms who received the most votes. It was an objective, clear and fair system. However, it was often criticized for being too blunt; and for not painting a fair picture of each of the 50-plus markets covered.

In response to the criticisms, we have radically changed the methodology of the survey since the last publication (in 2003/2004). The familiar nomination forms, enabling practitioners to nominate the leading firms in all countries covered,

Methodology at-a-glance

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US NON-CONTENTIOUS

Finnegan Henderson Farabow Garrett & Dunner

Fish & Richardson
Howrey Simon Arnold & White
Knobbe Martens Olson & Bear
Oblon Spivak McClelland Maier & Neustadt
Sughrue Mion

Burns Doane Swecker & Mathis
Ladas & Parry

Blakely Sokoloff Taylor & Zafman
Birch Stewart Kolasch & Birch
Darby & Darby
Kenyon & Kenyon

DLA Piper Rudnick Gray Cary
Townsend and Townsend and Crew
Welsh & Katz

Morrison & Foerster
Nixon & Vanderhye
Oliff & Berridge
Sheridan Ross

Baker Botts
Skadden Arps Slate Meagher & Flom
Wilmer Cutler Pickering Hale and Dorr

US - LITIGATION

Finnegan Henderson Farabow Garrett & Dunner

Fish & Neave IP Group of Ropes & Gray
Fish & Richardson
Fitzpatrick Cella Harper & Scinto
Kirkland & Ellis
Knobbe Martens Olson & Bear

Brinks Hofer Gilson & Lione
Howrey Simon Arnold & White
Kenyon & Kenyon
Morrison & Foerster
Oblon Spivak McClelland Maier & Neustadt
O'Melveny & Myers
Wilmer Cutler Pickering Hale and Dorr

Darby & Darby
Jones Day
Milbank Tweed Hadley & McCloy
Morgan & Finnegan
Skadden Arps Slate Meagher & Flom
White & Case
Wilson Sonsini Goodrich & Rosati

Baker Botts
Dewey Ballantine
Sughrue Mion
Townsend and Townsend and Crew
Weil Gotshal & Manges

Cravath Swaine & Moore
Davis Polk & Wardwell
Foley & Lardner
Latham & Watkins
Robins, Kaplan, Miller & Ciresi

continue to provide the foundation for the research. But this year we have built on these with extensive research and interviews covering all 57 countries – from Argentina to Vietnam.

Over the past three months, our team of researchers has asked practitioners, as well as in-house counsel, for detailed comments on each of the categories listed in this year's survey. Based on this extensive research, we have built up a more nuanced picture of the IP market, reflecting the different strengths of firms, their specializations and experience, and how they compare with each other.

The result is that rather than listing just 10 firms for each country in a one-to-ten listing, we have compiled tables of varying lengths broken up into tiers. The total number of firms listed therefore reflects the depth of expertise in each country, and the tiers reflect the research on each jurisdiction: firms in the top tier are regarded as the leaders in their market with the greatest expertise, experience and broadest coverage; those in the second tier are strong, but perhaps not quite as well-regarded; those in the lower tiers are also recommended but may offer a more limited range of services, or have less strength in depth.

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The second part of the IP survey, covering the leading firms in trade mark and copyright work, will be published in the March issue of *MIP*. The full survey will also be published in the *World IP Contacts Handbook*, available from April this year. The *Handbook* will include more information on some of the jurisdictions covered, including commentary on the strengths and focus of particular firms, and listings of outstanding individuals. The *Handbook* is distributed free to all *MIP* subscribers, and also includes information and data on IP developments.

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How to read the tables

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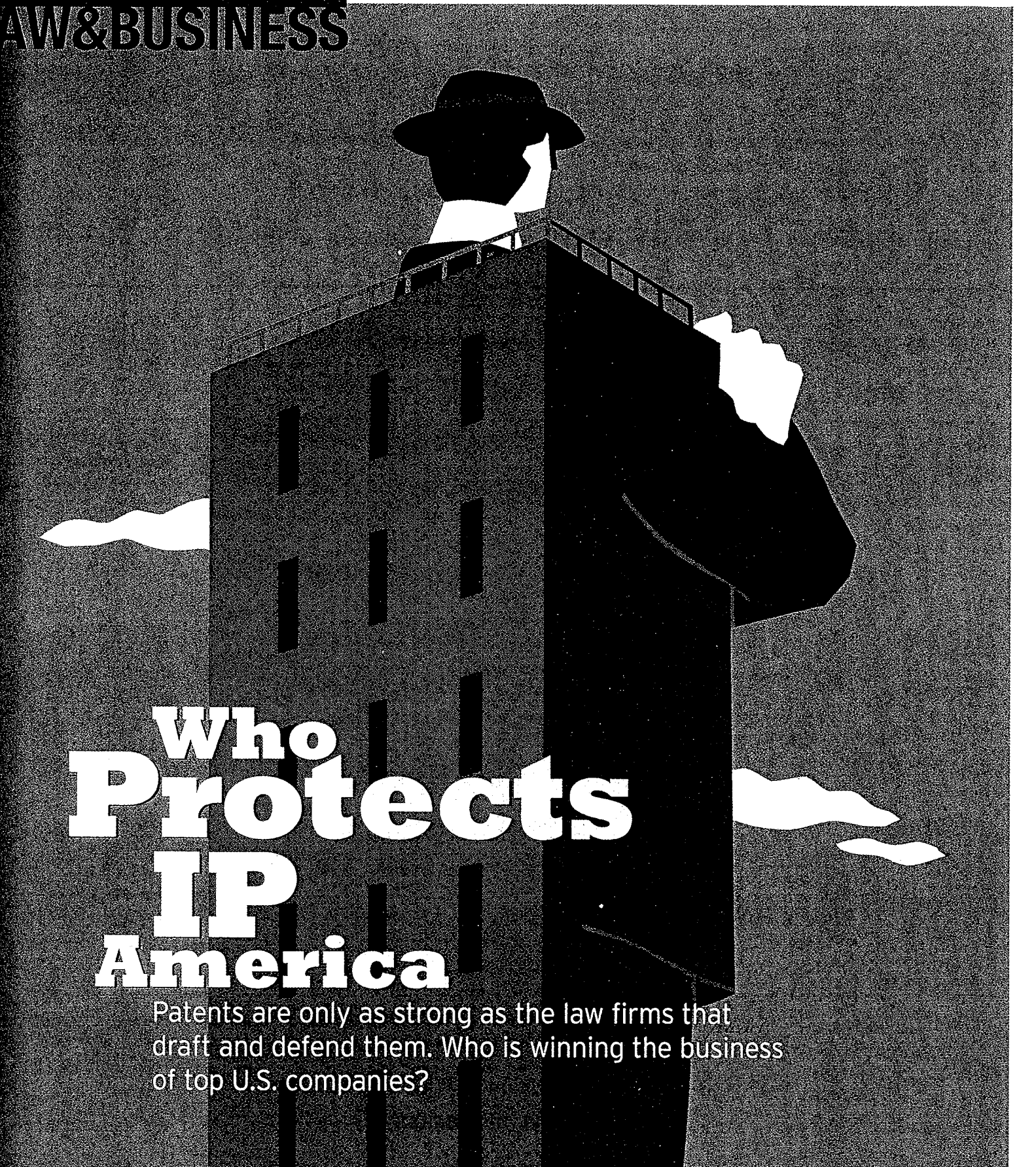
In the UK, separate tables are provided for agencies and law firms. In the US, there are separate tables for non-contentious and contentious work.

Firms are listed in tiers, according to their regard in the market. Within tiers, they are listed alphabetically. The rankings are published here for the first time, and no-one outside of *MIP* has seen them in advance of publication. ■

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP

JULY 2003

AW&BUSINESS



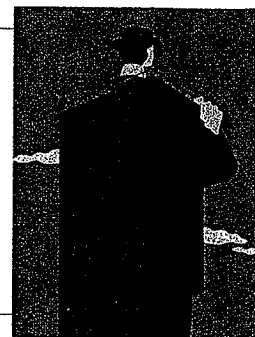
Who Protects IP America

Patents are only as strong as the law firms that draft and defend them. Who is winning the business of top U.S. companies?

Who Protects IP America

In the Fortune 250 market, many firms have a piece of the action.

Introduction By Mark Voorhees
Research By Rosemarie Clancy and Brett Rauber



Let's talk about market share. In the IP world, it's a single-digit affair. IP firms simply don't dominate the market in the way that, say, Wilson Sonsini Goodrich & Rosati once ruled the Silicon Valley deal domain and that a handful of New York firms control the corporate finance corner of the universe. Yes, boutiques are disappearing faster than you can say inequitable conduct. Yes, large general firms are marching into this market with intensity, if not expertise. But no, there simply is not a top dog; there's a pack.

For the past four years, we have asked the Fortune 250 to name their primary IP firms, specifically their primary litigation counsel and primary patent prosecution counsel. A group of firms with familiar names like Finnegan, Howrey, Fish, and Kirkland have done well each year, winning the IP business of the largest U.S. companies; plenty of others pick up bones here and there also. This year, 130 companies identified their primary IP litigation counsel. The leading trial firms were Finnegan, Henderson, Farabow, Garrett & Dunner (nine mentions); Kirkland & Ellis (eight); Howrey Simon Arnold & White (seven); and Jones Day (seven). As a share of the market, each of these firms has between (magnifying glasses, please) 5 percent and 7 percent. (The market share for prosecution is equally small. Howrey Simon led the field with four mentions out of 82 companies that answered that question, a 5 percent bite of the market.)

We come to praise these firms, not to bury them. Though their market share may be small, these firms keep winning assignments. Three of this year's leaders—Finnegan Henderson; Howrey Simon; and Kirkland & Ellis—have made our cut of top IP firms (most mentions in prosecution and litigation combined) each of the four times we have done this survey. The fourth, Jones Day, missed the grade only once. Six other firms have made the combined list all four years: boutiques Brinks Hofer Gilson & Lione, Fish & Neave, Fish & Richardson, and general firms Alston & Bird, Baker Botts, and Vinson & Elkins.

A place on the list is not a sinecure. Corporations have to select firms each year, and they sometimes make changes. General Electric Company, for example, no longer listed Weil, Gotshal & Manges; Banner & Witcoff; and McAndrews, Held & Malloy as primary IP counsel but has added Fish & Neave, Goodwin Procter, and Jones Day to its stable. As the sausage maker, we are aware of the limitations of this exercise. Just over half of the 250 companies responded. Some firms encourage their clients to fill out the surveys; others have their heads in the sand. In life and on this survey, the client has the last word.

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TOP IP FIRMS	NUMBER OF MENTIONS
FINNEGAN HENDERSON	12
Howrey Simon	11
Kirkland & Ellis	10
Jones Day	9
Baker Botts	8
Alston & Bird	7
Fish & Neave	6
Fitzpatrick, Cella	6
Leydig, Voit	6
Banner & Witcoff	5
Foley & Lardner	5
Greenberg Traurig	5
Vinson & Elkins	5
Carlson, Gaskey	4
Conley Rose	4
Faegre & Benson	4
Fish & Richardson	4
Rader, Fishman	4
Sidley Austin	4
Firms mentioned most often for litigation and patent prosecution	

December 2002

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP

WORLDWIDE



Who Protects IP America

Top GCs pick their favorite firms—and say why they like them

Who Protects IP America

These are the firms that safeguard corporate America's crown jewels.

P

atents last for 20 years, and it seems to take at least

that long to build up a robust IP practice. Washington, D.C.'s Finnegan, Henderson, Farabow, Garrett & Dunner has been in business since 1965, and Kirkland & Ellis has been building a substantial IP practice for nearly that long. Their experience wins clients. In our third annual "Who Protects IP America" survey, Finnegan Henderson came out on top, and Kirkland & Ellis was a close runner-up.

Experience counts. In the 1990s, it was easy for firms to sell themselves as experts in Internet law—a discipline built on solid knowledge of copyright and contract, to be sure, but also mere chutzpah. Chutzpah alone won't carry the day in IP work. In IP disputes, direct competitors are often at odds over key assets. These are not battles for the B-team.

In the survey, we asked the Fortune 250 to tell us who they view as their primary IP firms; 190 companies responded. Of those, 138 said that they used outside IP counsel. In "Leaders of the Pack," below, we list every firm mentioned by at least three companies—and there's hardly a parvenu on the page.

[Please note: This survey is an updated version of the chart that ran in *IP Worldwide's* July issue. In that survey a few firms sent us their own lists of clients among the Fortune 250, and we mistakenly gave those firms credit for those submissions, which were not verified by the clients. This survey corrects those errors. Additionally, *Corporate Counsel*, a sibling publication, continued the survey past *IP Worldwide's* deadline and was able to reach more companies.]

LEADERS OF THE PACK: Most frequently cited firms

FINNEGAN HENDERSON	10	FISH & RICHARDSON	5	HUNTON & WILLIAMS	3
KIRKLAND & ELLIS	9	FISH & NEAVE	4	JENKENS & GILCHRIST	3
ALSTON & BIRD	7	LEVYLOIS VOIT	4	KILPATRICK STOCKTON	3
HOWREY SIMON	6	SKADDEN	4	MERCHANT & GOULD	3
JONES DAY	6	VINSON & ELKINS	4	PERKINS COLE	3
WEIL GOTSHAL	6	FAEGRE & BENSON	3	SHAW PITTMAN	3
BAKER BOTTS	5	FITZPATRICK CELLA	3	STIDLEY AUSTIN	3
BANNER & WITCOFF	5	HAYNES AND BOONE	3		

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP

WORLDWIDE

Who Protects IP America

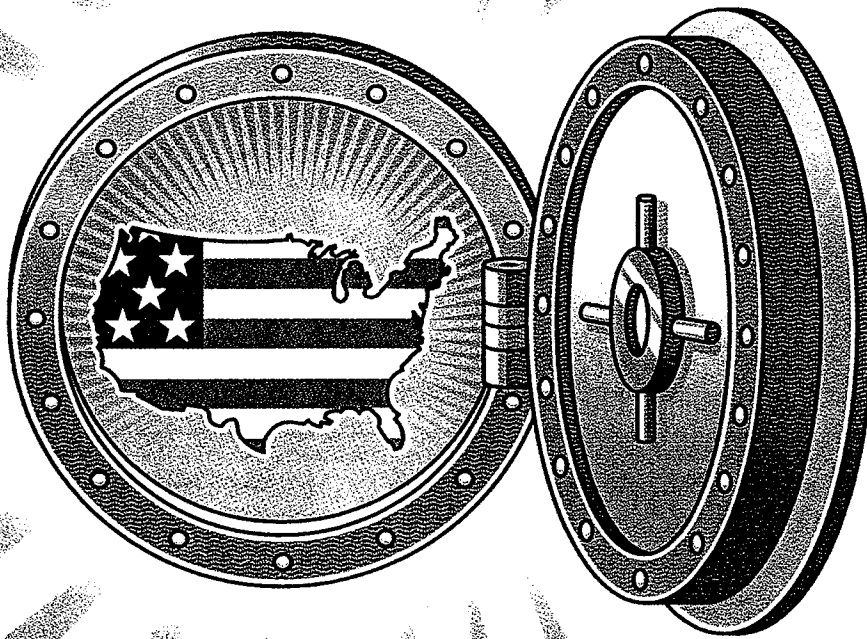


EXHIBIT C PAGE 12 OF 25

Introduction by Elaine R. Friedman

Profiles by Ashby Jones and Carlyn Kolker/Statistics compiled by Jeni Gallagher

Moving On And Up

A management shake-up polished Finnegan, Henderson's reputation as an IP power.

By Ashby Jones

Can you trust anyone under 50? That was the question confronting the first generation of leaders at Washington, D.C.'s Finnegan, Henderson, Farabow, Garrett & Dunner about six years ago. Rather than overstay their welcome, they turned the firm over to a handful of up-and-coming partners and chose Thomas Jenkins, a quiet, 45-year-old patent attorney, to run the firm.

"A lot of first-generation managements hang around too long," recalls Larry O'Rourke, 64, the current head of the Palo Alto office. "We wanted to tap into the new guard's energy while we were still spry enough to help them along."

In 1965, Mark Finnegan and Douglas Henderson fled Washington, D.C.'s Irons, Birch, Swindler & McKee to set up an intellectual property firm. The firm grew quickly under the pair, and did well even after Finnegan's death in 1979.

So the 1996 wholesale power shift was risky—made even riskier by the young partners' earliest moves. They opened offices in Palo Alto, Atlanta, Tokyo, and Brussels. And they supplemented their portfolio of Old Economy patent, trademark, and copyright work by branching into growth areas like high tech IP, patent interference, and international trade.

In the old days, "the place was much less democratic, like a lot of smaller firms used to be," says Robert Yoches, 48, a partner.

Yoches credits the old guard for sensing the need for new blood. "It was expertly handled at the time," he says, "and it's paid off well for the firm."

How well? Since 1996, the firm has grown from 150 to 260 lawyers, eclipsing New York's Fish & Neave and Kenyon & Kenyon as the largest IP specialty firm in the nation. According to *The American Lawyer's* recent listing of the 100 top-grossing law firms, the average Finnegan, Henderson partners raked in close to \$600,000 in 2000. And in *IP Worldwide's* accompanying survey, Fortune 250 companies—including 3M Co., Eli Lilly and Co., Sun Microsystems, Inc., Nortel Networks Corp., American Home Products Corp., and L'Oréal Group—reported using Finnegan more than any other to handle their IP litigation and counseling work.

An Appellate Star

Jenkins gives a lot of credit to the firm's appellate practice. Name partner Donald Dunner typically argues more cases a year at the Federal Circuit than any other lawyer in the country. Last year, he appeared eight times. "Dunner is the dean of the patent bar," says Jon Grossman, a patent partner at Washington, D.C.'s Dickstein, Shapiro, Morin & Oshinsky.

Due largely to Dunner, Finnegan, Henderson has built a stellar reputation for appellate work. But the firm has had to overcome the perception that, in front of juries, its lawyers are as persuasive as, well, patent lawyers. In recent years, the firm has added Liam O'Grady, an assistant U.S. Attorney from the Eastern District of Virginia, solo practitioner John



Thomas Jenkins (left) and Christopher Foley

Big is better:

Since 1996, the firm has grown from 150 to 260 lawyers, eclipsing New York's Fish & Neave and Kenyon & Kenyon as the largest IP specialty firm in the U.S.

FINNEGAN'S FORCE*

- American Home Products Corp.
- Caterpillar Inc.
- Eli Lilly and Co.
- FedEx Corp.
- Gateway Inc.
- Georgia-Pacific Corp.
- Hewlett-Packard Co.
- Occidental Petroleum Corp.
- PNC Financial Services Group Inc.
- PPG Industries Inc.
- Sun Microsystems Inc.
- The Boeing Co.
- The Coca-Cola Co.
- Xerox Corp.

*Clients

Lowe, and Wilson, Elser, Moskowitz, Edelman & Dicker's Gerald Ivey.

Lowe's tenure with the firm got off to a shaky start. He lost big trials on behalf of Xerox Corp. and Sony Corp. But both verdicts were later overturned. And he recently won two big patent infringement trials for Zeneca Inc.

"They've worked hard at improving, and now their trial lawyers are as good as anyone's," says Richard Bauer, a patent lawyer in the Washington, D.C. office of Chicago's Katten Muchin Zavis.

Bauer's comment notwithstanding, it's become fashionable for large, general practice firms to disparage IP firms. These firms now leverage their strengths in other areas—like corporate and employment litigation—to lure top IP clients.

And they've raided the IP firms for lawyers. Fish & Neave attorneys, including Palo Alto senior partner Edward Muldowney, have fled to New York's Shearman & Sterling. Kenyon & Kenyon has lost lawyers, like senior partner Frank Pietriantonio, to San Francisco's Cooley Godward. New York's Pennie & Edmonds has been hit the hardest. The firm lost 38 attorneys in 2000 alone, several of them to big places like the Bay Area's Cooley Godward and Chicago's Winston & Strawn.

The trend hasn't yet caught up to Finnegan, Henderson. "They've lost a couple of partners over the years," says Dickstein's Grossman, "but they haven't had any wholesale departures."

But whether Finnegan, Henderson can keep growing is an open question.

"Firms that can truly offer one-stop shopping are catching up with the Finnegan, Hendersons," says Charles Garrison of Washington D.C.'s legal recruiting firm, Garrison & Sisson.

If Jenkins feels threatened by the big firm menace, he doesn't show it. Finnegan, Henderson can throw as many bodies at huge cases as can a Kirkland & Ellis or Weil, Gotshal & Manges. "Our practice is deeper and broader than just about everyone else's," he says.

The firm has no desire to sprout other departments. And that's okay with some of the firm's clients. "They're great at what they do, and they have a remarkably deep bullpen," says Egon Berg, an associate general counsel at American Home Products Corp. "Some general practice firms have good IP lawyers, but few have as many capable ones as Finnegan."

Two of those lawyers were slated to swap shoes on July 1. Christopher Foley, 47, a patent and trademark partner, will replace Jenkins as managing partner.

His says his biggest jobs are to expand the firm's regional offices and to "continue the path Tom set us on." That is, until the next group of young partners have something else in mind.

Managing Intellectual Property™

A SPECIAL REPRINT FOR



Incorporating IP Asia
March 2006
www.managingip.com

Top trade mark firms revealed



MIP's survey of the world IP market, now in its 10th year of publication, provides a unique perspective on IP practice – based on the experiences of hundreds of clients and practitioners worldwide. In the following pages, we reveal which firms are recommended, as well as which are rated in the top tier, in 64 countries and covering both prosecution and contentious work.

We believe the survey is valued by the IP profession because it represents an independent snapshot of which firms are rated highly not just in the key markets of North America and Europe but also throughout Asia, Latin America and the key African and Middle East jurisdictions. IP is practised truly globally and the survey reflects that reality. Moreover, the survey does not simply list the biggest firms, those which have the biggest caseload or the oldest. Instead, it reveals which firms are rated by their peers for the strength of their expertise and the depth of their ability to service clients. MIP's unrivalled team of researchers have spent the past five months asking practitioners and assembling the tables to provide the most accurate picture of the IP market yet.

Methodology at-a-glance

- More than 2,000 people were personally contacted by email and asked to provide information and nominations for the survey.
- Some 500 interviews were carried out by telephone, email and face-to-face.
- The research was conducted between September 2005 and January 2006.
- The survey covers 60 jurisdictions.
- Firms are listed in tiers, which reflect their regard in the market. Within each tier, firms are listed alphabetically.
- No firm can vote for its own inclusion. No one can pay to be listed.
- The final results are published here for the first time. No one else has seen them prior to publication.

UNITED STATES

TRADE MARK PROSECUTION

Tier 1

FROSS ZELNICK LEHRMAN & ZISSU

Tier 2

COWAN LIEBOWITZ & LATMAN

FINNEGAN HENDERSON FARABOW GARRETT & DUNNER

KENYON & KENYON

KNOBBE MARTENS OLSON & BEAR

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT

Tier 3

FISH & RICHARDSON

FITZPATRICK CELLA HARPER & SCINTO

SUGHRUE MION

Tier 4

BRINKS HOFER GILSON & LIONE

DRINKER BIDDLE

LADAS & PARRY

MCDERMOTT WILL & EMERY

WELSH & KATZ MERCHANT & GOULD

Tier 5

DEWEY BALLANTINE

DORSEY & WHITNEY

HELLER EHRMANN

MORGAN LEWIS

PILLSBURY WINTHROP SHAW PITTMAN

SHERIDAN ROSS

Tier 6

ABELMAN FRAYNE & SCHWAB

COOLEY GODWARD

DARBY & DARBY

Tier 7

AKIN GUMP STRAUSS HAUER & FELD

ALSTON & BIRD

DLA PIPER RUDNICK GRAY CARY

LOTT & FRIEDLAND

PERKINS COIE BROWN & BAIN

TRADE MARK/COPYRIGHT CONTENTIOUS

Tier 1

FROSS ZELNICK LEHRMAN & ZISSU

Tier 2

COWAN LIEBOWITZ & LATMAN

FINNEGAN HENDERSON FARABOW GARRETT & DUNNER

KENYON & KENYON

KILPATRICK STOCKTON

KNOBBE MARTENS OLSON & BEAR

PATTISHALL MCAULIFFE NEWBURY HILLIARD & GERALDSON

Tier 3

FISH & RICHARDSON

FITZPATRICK CELLA HARPER & SCINTO

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT

SUGHRUE MION

Tier 4

COOLEY GODWARD

DARBY & DARBY

DEWEY BALLANTINE

FISH & NEAVE IP DEPARTMENT AT ROPES & GRAY

HOWREY

KIRKLAND & ELLIS

MCDERMOTT WILL & EMERY

Tier 5

BRINKS HOFER GILSON & LIONE

DORSEY & WHITNEY

MORGAN LEWIS

MORRISON & FOERSTER

WILSON SONSINI GOODRICH & ROSATI

Tier 6

DRINKER BIDDLE

NIXON & VANDERHYE

PILLSBURY WINTHROP SHAW PITTMAN

WELSH & KATZ

Tier 7

PERKINS COIE BROWN & BAIN

WINSTON & STRAWN

Tier 8

ARENT FOX

FRIED FRANK HARRIS SHRIVER & JACOBSON

HOGAN & HARTSON

FOREIGN FIRMS IN JAPAN

Tier 1

LOVELL'S

MORRISON & FOERSTER

Tier 2

FINNEGAN HENDERSON

HOGAN & HARTSON

SUGHRUE MION

Tier 3

FOLEY & LARDNER

MORGAN LEWIS

WENPING & CO

Managing Intellectual Property

A SPECIAL REPRINT FOR



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Meet the world's leading patent firms



MIP's unique survey of the world IP market, now in its 10th year of publication, provides a unique perspective on IP practice – based on the experiences of hundreds of clients and practitioners worldwide. In the following pages, we reveal which firms are recommended, as well as which are rated in the top tier, in 60 countries and covering both prosecution and contentious work.

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UNITED STATES

PATENT CONTENTIOUS

Tier 1

FINNEGAN HENDERSON FARABOW GARRETT & DUNNER
KIRKLAND & ELLIS

Tier 2

FISH & NEAVE IP GROUP OF ROPES & GRAY
FISH & RICHARDSON
FITZPATRICK CELLA HARPER & SCINTO
HOWREY SIMON ARNOLD & WHITE
WEIL GOTSHAL MANGES
WILMER CUTLER PICKERING HALE AND DORR

Tier 3

BRINKS HOFER GILSON & LIONE
IRELL & MANELLA
KEKER & VAN NEST
KENYON & KENYON
KNOBBE MARTENS OLSON & BEAR
MCDERMOTT WILL & EMERY
MORGAN & FINNEGAN
MORRISON & FOERSTER
OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT
O'MELVENY & MYERS

Tier 4

DAY CASE BEER MADRID & BATCHELDER
DICKSTEIN SHAPIRO MORIN & OSHINSKY
JONES DAY
MILBANK TWEED HADLEY & MCCLOY
ROBINS KAPLAN MILLER & CIRESI
SKADDEN ARPS SLATE MEAGHER & FLOM
WHITE & CASE
WILSON SONSINI GOODRICH & ROSATI

Tier 5

BAKER BOTTS
COOLEY GODWARD
DARBY & DARBY
DEWEY BALLANTINE
FOLEY & LARDNER
FULBRIGHT & JAWORSKI
HOGAN & HARTSON
LATHAM & WATKINS
SUGHRUE MION
TOWNSEND AND TOWNSEND AND CREW

PATENT PROSECUTION

Tier 1

FINNEGAN HENDERSON FARABOW GARRETT & DUNNER

Tier 2

FISH & RICHARDSON
KNOBBE MARTENS OLSON & BEAR
OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT
SUGHRUE MION

Tier 3

FISH & NEAVE IP GROUP OF ROPES & GRAY
FITZPATRICK CELLA HARPER & SCINTO
HOWREY SIMON ARNOLD & WHITE
KENYON & KENYON
MORRISON & FOERSTER

Tier 4

BIRCH STEWART KOLASCH & BIRCH
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
DARBY & DARBY
FULBRIGHT & JAWORSKI
HELLER EHRMAN
LADAS & PARRY
MCDERMOTT WILL & EMERY
TOWNSEND AND TOWNSEND AND CREW
WHITE & CASE

Tier 5

DICKSTEIN SHAPIRO MORIN & OSHINSKY
DLA PIPER RUDNICK GRAY CARY
DRINKER BIDDLE
WELSH & KATZ

Tier 6

NIXON & VANDERHYE
OLIFF BERRIDGE
SHERIDAN ROSS

Tier 7

BAKER BOTTS
WILMER CUTLER PICKERING HALE AND DORR

FOREIGN FIRMS IN JAPAN

Tier 1

LOVELLS
MORRISON & FOERSTER

Tier 2

FINNEGAN HENDERSON
HOGAN & HARTSON
SUGHRUE MION

Tier 3

FOLEY & LARDNER
MORGAN LEWIS

REPRESENTATIVE CASES

- ***Medinol, Ltd. v. Guidant Corp.***, C.A. No. 02-CV-05273 (S.D.N.Y.) – lead trial counsel for accused infringer Guidant Corp. in June 2006 jury trial on patent infringement claim involving cardiovascular stents.
- ***Advanced Cardiovascular Sys., Inc. v. Medtronic Vascular, Inc.***, C.A. No. 98-80 (D. Del.) – lead trial counsel for Advanced Cardiovascular Systems (ACS) in February 2005 jury trial on patent infringement claims involving cardiovascular stents and June 2005 bench trial on enforceability of patents; obtained jury verdict for ACS on its infringement claims against Medtronic; also obtained summary judgment for ACS on all of Medtronic's infringement and state law counterclaims, which was affirmed on appeal.
- ***Toshiba Corp. v. Lexar Media, Inc.***, C.A. No. 02-CV-05273 (N.D. Cal.) – lead trial counsel for accused infringer Toshiba in declaratory judgment action involving thirteen patents on flash memory controller technology; conducted successful *Markman* hearing in August 2004; obtained favorable settlement of all litigation between parties.
- ***Medtronic, Inc. v. Cardiac Pacemakers, Inc.***, C.A. No. 03-838 (D. Del.) – lead trial counsel for patent owner Cardiac Pacemakers in bench trial in November 2004 on validity of patent for implantable cardiac stimulators; validity of patent upheld and affirmed on appeal.
- ***Guidant Corp. v. Cordis Corp.*** – lead trial counsel for claimant Guidant in an arbitration/trial in October 2003 on patent infringement claims involving cardiovascular stents; obtained favorable settlement of all litigation between parties.
- ***Broadcast Innovations, L.L.C. v. Echostar Comm. Corp. et al.***, C.A. No. 01-WY-2201 (D. Colo.) – lead trial counsel for defendant Hughes Electronics Corp. in patent infringement action involving direct broadcast satellite technology; settled favorably after *Markman* hearing.
- ***DePalma v. Nike, Inc., et al.***, C.A. 95-CV-1428 (N.D.N.Y.) – lead trial counsel for defendant Nike in patent infringement action involving hockey pads; obtained summary judgment of no infringement, which was affirmed on appeal.
- ***Lucent Technologies v. Perphonics Corp.***, C.A. No. 98-395-GMS (D. Del.) – lead trial counsel for defendant Periphonics (Nortel) in patent infringement action involving nine patents on interactive voice response systems; settled favorably after *Markman* hearing.
- ***Arthur A. Collins, Inc. v. Northern Telecom Ltd.***, C.A. No. 98-CV-380 (E.D. Va.) – represented defendant Nortel in patent infringement action involving optical networking equipment; obtained summary judgment of noninfringement after favorable claim construction, which was affirmed on appeal.



Firm Profile

Finnegan Henderson is the largest law firm in the world focusing solely on intellectual property law. Founded in 1965 by the late Marcus Finnegan and our senior partner Douglas B. Henderson, Finnegan Henderson has grown from a two-member partnership to a firm of 300 lawyers practicing all aspects of IP law.

In surveys conducted over the past several years, American Lawyer Media has consistently ranked Finnegan Henderson as one of the top law firms that Fortune 250 corporations rely on for IP counseling and litigation. In *Managing Intellectual Property's* 2002, 2003/2004, 2005, and 2006 World IP surveys of 4,000 global practitioners, the firm was ranked as the #1 U.S. law firm for patent litigation and noncontentious patent work. The same publication ranked us as the first- or second-place U.S. firm for trademark litigation in its 2002, 2003/2004, and 2005 surveys. In the rankings for noncontentious trademark work, we have risen from fifth place (2002) to third (2003/2004) to tie for second (2005). Most recently, the January 2006 issue of *The American Lawyer* named us the top IP Litigation Firm of the Year.

Our Lawyers

Our diverse and extensive legal and technical expertise enables us to marshal considerable force in representing our clients. Our 300 lawyers bring a wealth of intellectual property law experience to the firm from their past positions as law clerks for federal judges (including many from the U.S. Court of Appeals for the Federal Circuit, the U.S. Court of Federal Claims, and various U.S. District Courts); as lawyers for the International Trade Commission and the Justice Department; as corporate patent, trademark, and copyright counsel; and as patent examiners or trademark lawyers for the U.S. Patent and Trademark Office. With the vast technical knowledge our lawyers bring to the firm, in fields ranging from molecular biology to chemical, mechanical, and electrical engineering, we are well equipped to tackle the legal issues surrounding any technical field.

Our Practice

Headquartered in Washington, D.C., we have four other domestic offices in Atlanta, Georgia; Cambridge, Massachusetts; Palo Alto, California; and Reston, Virginia. Additionally, we have international offices in Brussels, Belgium; Taipei, Taiwan; and Tokyo, Japan. The firm practices all aspects of patent, trademark, copyright, and trade secret law, including counseling, prosecution, licensing, and litigation. We also represent clients on IP issues related to international trade, portfolio management, the Internet, e-commerce, government contracts, antitrust, and unfair competition.

We represent our clients' litigation interests in courts around the country, including the U.S. District Courts, a variety of state courts, and the U.S. Supreme Court. Over the

years, we have developed a particular expertise arguing before the U.S. Court of Appeals for the Federal Circuit, the federal court charged with hearing all appeals in patent cases. We represent clients in actions against the U.S. Government in the U.S. Court of Federal Claims, in actions before the International Trade Commission, and in actions before the U.S. Customs Service. We also coordinate with firms in other countries regarding international litigation matters.

The interests we serve for our clients are not limited to litigation, however. Much of our work centers on efforts to avoid litigation. Our lawyers serve as both advocates and arbitrators in domestic and international arbitration, and we frequently provide advice and opinions on the infringement and validity of all forms of intellectual property. Our other work includes assisting clients in achieving the greatest value from their intellectual property law assets. We conduct intellectual property audits, provide patent and trademark watch services, formulate strategies for using intellectual property assets, formulate and carry out IP licensing programs, and negotiate and draft domestic and international licensing agreements. We obtain appropriate licenses under the U.S. export control laws and negotiate as well as litigate U.S. government contract disputes, especially in the area of data rights issues.

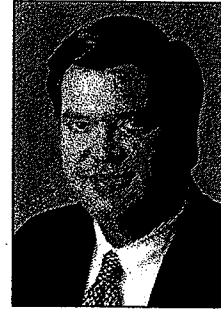
In addition, we conduct the administrative end of our practice regularly in the U.S. Patent and Trademark Office, the International Trade Commission, and the U.S. Customs Service. Annually, a staff of over 800, including lawyers, technical assistants, legal assistants, and other support personnel, handle more than 3,000 patent applications, file several thousand new trademark applications, and render legal opinions for our numerous national and international clients. In our Washington, D.C. office, we dedicate an entire department to coordinating, filing, and managing applications for patents and trademarks in the United States, Europe, Asia, and other parts of the world.

Our Commitment to Excellence

Since our origin, we have committed ourselves to pursuing the highest quality of service for our clientele. In achieving that goal, our lawyers have earned reputations as leading practitioners and litigators in U.S. intellectual property law. We actively participate and hold offices in technical, bar, and intellectual property-related associations. A number of our lawyers serve as adjunct professors at some of the nation's premier law schools and many are invited to speak at national and international events in continuing legal education programs. We frequently publish articles in respected legal, technical, and scientific journals, and several of our lawyers have had the honor of authoring leading treatises on intellectual property law and federal court litigation.

By positioning ourselves at the forefront of the evolving intellectual property law issues, and by pursuing excellence in our lawyers and staff, as well as in the quality of our work, we at Finnegan, Henderson, Farabow, Garrett & Dunner consistently uphold our commitment to vigorously and successfully representing our clients.

Mike Jakes has broad experience in all aspects of patent law, including patent prosecution and litigation, earning him a listing as one of The Best Lawyers in America (Naifeh and Smith). He has had responsible roles, including lead counsel, on numerous patent cases from discovery through trial and appeal. His practice has included trials in federal district courts and before arbitration panels. He has special expertise in appeals to the U.S. Court of Appeals for the Federal Circuit, where he has argued numerous appeals and has prepared and filed briefs in many more. He deals mainly with technologies related to the computer, electronics, semiconductor, and medical device industries.



Prior to entering law school, Mr. Jakes worked as a design engineer for Westinghouse, where he gained technical experience designing computer hardware and software. While in law school he served as editor of the *Georgetown University Law Journal*. After graduating from law school, he served as a law clerk to the Honorable Giles S. Rich of the U.S. Court of Appeals for the Federal Circuit.

Mr. Jakes has served as both a special master and a technical advisor to various U.S. district courts across the country. In this capacity, he has assisted the courts with claim construction and summary judgment motions on patents covering a wide variety of subjects, ranging from electronic ballasts for fluorescent lighting to pagers and cell phones, optical networks and mass storage devices to steel wall systems.

Mr. Jakes frequently lectures on and teaches intellectual property law. He has been an instructor for Patent Resources Group on advanced U.S. patent law and current Federal Circuit practice, patent damages and injunctions, and term extending ex parte patent practice. He has also taught courses on patent law at Catholic University Law School and patent and trademark appeals before the Federal Circuit at American University Law School. Among his many publications, he is currently a coauthor of a two-volume treatise published by Matthew Bender on practice and procedure before the U.S. Court of Appeals for the Federal Circuit.

Admitted:

1986, Virginia; 1988, District of Columbia, U.S. Court of Appeals for the Federal Circuit; 1993, U.S. Supreme Court, U.S. District Court for the Eastern District of Virginia; registered to practice before the U.S. Patent and Trademark Office.

Education:

Georgetown University Law Center (J.D., *magna cum laude*, 1986); Johns Hopkins University (M.S., Computer Science, 1983); Duke University (B.S., Electrical Engineering, *summa cum laude* with distinction, 1979).

Association Involvement:

District of Columbia Bar; Virginia State Bar; Federal Circuit Bar Association (Chair, Patent Litigation Committee 2003-04); American Bar Association (Section on Intellectual Property Law; Chair, Antitrust Committee 1998-99; Chair, Amicus Briefs Committee, 1995-98); American Intellectual Property Law Association (Amicus Committee 1997-2001; Special Committee on Patent Jury Trials, 1995-97; Chair, Awards Committee, 1992-94); Giles S. Rich Moot Court Competition (National Director, 1989-91); Giles S. Rich American Inn of Court (1993-97); Tau Peta Pi; Eta Kappa Nu.

Representative Publications:

"Using an Expert at a *Markman* Hearing: Practical and Tactical Considerations," *IP Litigator*, August 2002; Coauthor, *Court of Appeals for the Federal Circuit: Practice & Procedure*, Matthew Bender & Co., 1993-present; "A Statistical Look at the Federal Circuit's Patent Decisions: 1982-1994," *Federal Circuit Bar Journal*, 1995; "The Equitable Doctrine of Equivalents," National Inventor's Hall of Fame, 1993, reprinted in *Journal of Patent and Trademark Office Society*, 1993, and *Intellectual Property Law Review*, 1995.

John Williamson's practice focuses primarily on intellectual property litigation, with particular emphasis on trade secret and patent infringement litigation in the U.S. district courts. Mr. Williamson has directly participated in every aspect of litigation, including investigating facts and claims, managing discovery, drafting and arguing motions, deposing fact and expert witnesses, and taking witness testimony during trial. His cases have spanned a wide range of technical and business subject matter areas, including software, business methods, telecommunications, pharmaceuticals, medical devices, and home appliances.



In addition to his litigation experience, Mr. Williamson also engages in client counseling and opinion work related to data communications and Internet business models, including analysis in the evolving areas of digital rights management, Internet-related copyright and trademark issues, computer fraud and abuse act claims, and state law computer trespass claims.

During law school, Mr. Williamson gained extensive academic and research-based exposure to regulatory economics, data communications, telecommunication systems, satellite communications, and digital rights management, while pursuing a joint JD/MS (telecommunications) program with the University of Colorado Graduate School.

Mr. Williamson first joined the firm in 2000, and has recently returned to the firm following a clerkship with the Honorable Liam O'Grady in the United States District Court for the Eastern District of Virginia (the "Rocket Docket").

Mr. Williamson remains active in numerous bar and trade organizations. From 2000 through the present, Mr. Williamson has served as the vice-chair and the chair of the D.C. Bar Intellectual Property Section's Trade Secrets Committee.

Admitted:

2000, Colorado; 2001, District of Columbia; registered to practice before the U.S. Patent and Trademark Office.

Education:

University of Colorado Graduate School (M.S. Telecommunications, 2003); University of Colorado School of Law (J.D. 2000); University of Colorado (B.A., Economics, 1997).

Representative Publications:

Coauthor, "New Challenges When Using the Employment Contract to Protect Trade Secrets, Confidential Information, and Competitive Advantage," *IP Litigator*, April 2001.



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